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**BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES**

Application Number: 10/674,884
Filing Date: 09/29/03
Appellant(s): Alexey Kryuchkov et. al

David P. Olynick
For Appellant

EXAMINER'S ANSWER

This is in response to the appeal brief filed 3/19/09 appealing from the Office action mailed 02/20/08.

(1) Real Party in Interest

A statement identifying by name the real party in interest is contained in the brief.

(2) Related Appeals and Interferences

The Examiner is not aware of any related appeals, interferences, or judicial proceedings which will directly affect or be directly affected by or have a bearing on the Board's decision in the pending appeal.

(3) Status of Claims

The statement of the status of claims contained in the brief is correct.

(4) Status of Amendments After Final

No amendment after final has been filed.

(5) Summary of Claimed Subject Matter

The summary of claimed subject matter contained in the brief is correct.

(6) Grounds of Rejection to be Reviewed on Appeal

The appellant's statement of the grounds of rejection to be reviewed on appeal is correct.

(7) Claims Appendix

The copy of the appealed claims contained in the Appendix to the brief is correct.

(8) Evidence Relied Upon

(WO 02/32521 A1)	Ellis	10-2001
(US 2004/0048657 A1)	Gauselmann	05-2002
(US 7,179,166 B1)	Abbott	10-2000

(9) Grounds of Rejection

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 39, 41-45, 48-50, 54-57, 60-64, 66, 75-84 and 86-90 are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis (WO 02/32521 A1).

1. Regarding claims 39 and 75, Ellis discloses an electronic game that initially displays a plurality of rows and columns containing a variety of symbols in two dimensions (2D) arranged to represent

virtual slot reels (Abstract) in their first position. However, the reels morph or change into three dimension (3D) reels or a second position during a spin as a means to give the player an impression of a novel form of entertainment (pg. 2, par. 2, lines 1-4). In the first position the plurality of rows and columns combine to form a square in 2D, however the game could also have other shapes like rectangles, triangles, etc. based on the number of row and columns (pg. 2, par. 3, lines 4-6). The 2D reel is divided into several segments each containing a symbol and separated by a space as a means to provide the space required to show a degree of depth when the symbol is drawn in 3D (fig. 2). Furthermore, the number of segments displayed by the 2D reels is less than a total number of segments (fig. 2). Upon the completion of a vertical spin, if a special result is achieved than at least one row is capable of spinning horizontally (pg. 2, par. 3, lines 8-11). Therefore the prior art contains multiple subsets of symbols that spin either the same or alternative direction. Furthermore, the 2D symbols or a first subset of symbols and the 3D symbols or a second subset also met the applicant's limitations about subset of symbols.

2. Regarding claim 41-43, 54-57, 61 and 86-90, each reel is considered a different surface since they are drawn as separate elements. The prior art discloses a game of three reels (fig. 2), however discloses the display can have any number of row and columns or reels (pg. 7, par. 6, lines 1-4). Furthermore, in the case of the prior art example of three rows and three columns (pg. 8, par. 1, lines 2-4) there will always be a total of nine symbols in every outcome (fig. 2) and less than the total number of symbols. On a final note, a number of segments on a row are used to define a winning payline (pg. 9, par. 3, lines 6-8) and determine the outcome or award after the completion of a 3D spin (pg. 5, par. 5, lines 4-7).

3. Regarding claims 44-45 & 77-83, the prior art describes the reels or flat strip of a slot machine leaving the 2D plane to enter a 3D representation during the spin mode (pg. 8, par. 1, lines 11-14); therefore depicting a motion along a linear path from the top to the bottom of the screen (fig. 2, 9).

4. Regarding claims 48-50, the prior art discloses spinning the columns vertically and the rows horizontally (pg. 2, par. 3, lines 8-11). Therefore a vertically spinning columns (fig. 2, 9-11) or first subset of symbols overlaps with a horizontally spinning rows (fig. 2, 6-8) or second subset of symbols. The prior art's figure 2 also describes another form of overlap by depicting 2D symbols or a first subset on the same screen with 3D symbols or a second subset. The direction of movement in regards to a spin varies over time since a horizontal spin only occurs as a result of a special condition (pg. 2, par. 3, lines 8-11). Furthermore, the rate of movement also varies over time since a column is allowed to spin in unison, individually or in staggered fashion (pg. 8, par. 2, lines 11-14).
5. Regarding claims 62-63, 66 and 76, during a first game a bonus or second game state is triggered by a predetermined event causing a 2D cube and its symbols to transform into a 3D cube and symbols (pg. 10, par. 3, lines 1-5) as a means of depicting a new form of presentation (pg. 10, par. 3, lines 10-12). Therefore the initial state of the second game is the final state of the first game.
6. Regarding claim 84, Ellis discloses providing a player the option of further spinning the reels after a spin by inputting a spin command button (pg. 7, par. 5, lines 8-12).
- 7.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 51-53, 58-59, 65 and 85 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (WO 02/32521 A1) in view of Gauselmann (US 2004/0048657 A1).

8. The above description of the invention disclosed by Ellis and the limitations they pertain is considered within this art rejection as well. The rendered 2D images are used as part of the game outcome presentation (pg. 3, par. 2, lines 18-21). Ellis discloses a game where a player can decide to spin the reels horizontally (Fig. 3) after spins the reels vertically (Fig. 2 & pg. 3, par. 1, lines 3-5). However remains silent about other reel movements: speeding/slowing down, recoil action or oscillating into a final position.

9. Gauselmann discloses a game machine that allows a player or casino operator to configure the spinning time or speed of the reels (Abstract). The arrangement of the symbols or the number of different type of symbols on the reels is also configurable (Abstract) allowing a player or casino operator to create their own reel strips (par. 34, lines 17-18).

10. One of ordinary skill would have combined the art teachings of Gauselmann with Ellis in order to support the limitations that were disclosed by Ellis. As well as include extra features that will make the experience even more interactive through a wide variety of options within the game framework (Ellis: pg. 2, par. 1, lines 1-4). Therefore this art combination of Ellis and Gauselmann supports the customization of game's features not mentioned by Ellis like other type of reel movements since the movements are an inconsequential change. However the limitation of the reel movements carries no patentable weight since no stated problem is solved or unexpected result obtained by including these features. Therefore the Office views these claim limitations as mere design choice.

11. Regarding claims 58-59 and 85, Gauselmann discloses the use of various input devices: keypad (Gauselmann: par. 21, lines 1-2), buttons (Gauselmann: par. 22, lines 1-2) or a touch screen (Gauselmann: par. 22, lines 8-9). The touch screen allows the manufacture to replace all the necessary physical buttons with virtual ones; therefore accepting all of the player's control inputs by touching the screen (Gauselmann: par. 25, lines 5-7). In other words, if a person played the embodiment (Ellis: pg. 2, par. 4, lines 1-3) requiring them to choose which line to spin horizontally

(Ellis: pg. 3, par. 1, lines 3-5) then the player must touch an active surface of a 2D image to initiate an altering movement (horizontal) in the 3D environment.

12. Regarding claim 65, Gauselmann discloses offering the player several reel stripes choices. In other words, the player defines the entire reel strip around a virtual reel, how it begins and ends (Gauselmann: par. 34, lines 13-18).

Claim 60 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis (WO 02/32521 A1) in view of Abbott (US 7,179,166 B1).

13. Ellis discloses providing a player the option of further spinning the reels by inputting a spin command (pg. 3, par. 1, lines 3-5). Therefore the action of not sending the command is viewed as a means of expressing a player's desire to stop spinning the reels. However, Ellis is silent about providing a dedicated stop button to end a game.

14. Abbott discloses a stop button that ends the rotation of the reels (Abstract). It would have been obvious for one of ordinary skill to have incorporated a stop feature as disclosed by Abbott into Ellis since the game disclosed by Ellis already teaches giving the player a means to inform the game to stop spinning the reels.

(10) Response to Argument

Definitions

Generate: **create something**: to bring something into existence or effect (Encarta World English Dictionary)

Virtual: being on or simulated on a computer (Merriam Webster's Online Dictionary 11th Edition)

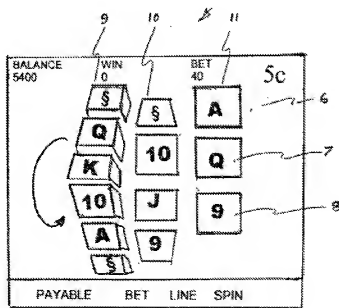
Render: COMPUT **draw something**: to draw something in computer graphics (Encarta World English Dictionary)

Claims 39, 41-45, 48-50, 54-57, 60-64, 66, 75-84 & 86-90 are not anticipated by Ellis (page 9, sec. A of Brief)

The limitations in question:

- (1) **generating** a virtual slot reel at a **first position** with a **first set** of symbols
- (2) **moving** the virtual of the slot reel to a **second position**
- (3) **generating** a virtual slot reel again at the **first position** with a **second set** of symbols
- (4) **moving** the virtual slot reel again to the **second position**

The prior art, Ellis describes an electronic game (abstract) through an explanation of the image found below. The provided image is a game screen of an electronic game therefore the art inherently teaches a computer **generating** (drawing) the displayed virtual slot reel. According to the reference this image displays a reel (column 9) **moving** (rotating) in three dimensions (3D) from a static two dimensional (2D) presentation (pg. 8, par.



Game Screen

2). The arrow shows the direction of the rotation for the reel (column 9) shifting into a moving or **second position** from a resting or **first position**, which is depicted by the position of the third reel (column 11). The purpose of spinning slot reel is to cause the appearance of another set of symbols on a payline that will result in an award (pg. 9, par. 3, lines 1-3). Thus the Examiner considers the three displayed 2D symbols after a spin as being different from the three 2D symbols displayed before a start of a spin. Thus the prior art teaches a **first position** with a **first** and **second set** of **symbols** after **generating** a motion.

Failing to disclose a 3D Environment (page 10, par. 2 & page 16, sec 2 of Brief)

The art states a two dimensional object transforming to spinning in 3D (pg. 5, par. 3, lines 7-8), thus the transformed object must be a **3D surface model** in a **3D environment**. The appellant appears to be arguing that the presented reels in Ellis are pre-generated animation or video of an object that appears in 3D created using conventional techniques. Foremost, Ellis provides no evidence of using pre-generated animation or video. In fact, the prior art never uses the terms pseudo-3D, 2.5D or isometric projection which would convey representing the reels to "appear" or make a 2D object look 3D. The art simply states the reels are 3D objects that spin in 3D space. Second, under the most basic definition for **rendering** (drawing of computer graphics) the Examiner views the prior art as teaching **rendering** since images are processed onto the screen and therefore "rendered".

"Appear to enter and to leave the display screen" as recited in claim 39 (page 13, sec b of Brief)

As stated above, the prior art teaches the appellant's limitations, even symbols to "appear to enter and to leave the display screen in an order specified by the sequence of symbols determined for each virtual reel strip". The disclosed image shows the first reel (column 9) spinning in a downward direction. Due to the motion, the symbol (from hereon symbol 'X') after the symbol 'A' is drawn smaller than any of the other symbols. Therefore symbol 'X' is depicted or appears to leave the display screen. As for the symbol (from hereon symbol 'Y') above symbol 'Q', the symbol (Y) is depicted or appears to enter the screen. Therefore the prior art's spinning motion teaches the appellant's "appear to enter and to leave" effect.

Subset of Symbols (page 14, par. 1 of Brief)

The art teaches displaying a number of 2D symbols before spinning the reels thus revealing even more symbols in 3D (pg. 5, par. 3, lines 5-9) and at the end of the spin displaying once again a

number of 2D symbols (pg. 6, par. 1). Therefore the Examiner views the first subset of symbols as the pre-spin symbols and the post-spin symbols as a second subset of symbols that are generated, drawn, moved and selected by the game computer. Furthermore, the second subset of symbols is selected when a rotation ends and the new symbols are displayed for the user in 2D (pg. 6, par. 1).

Rotation of the slot reel in Ellis (page 15, sec. C of Brief)

The Examiner disagrees with the appellant's belief that the spinning of the prior art slot reels is not analogous to the features found in claim 39 for the rational stated above. The appellant attempts to support this belief with statements such as "are capable of rotation in an essentially vertical plane" and "rotations of this type in two dimensions are known". Foremost the statements are pulled out of the content thus losing their intended meaning. The statements were describing the direction of the rotational motion and that a 2D spin of the reel is well known. In other words, the prior art is simply stating the rotation of reels in 3D that were 2D object is a unique feature at the time (pg. 8, par. 2).

Applying the art combination of Ellis and Gauselmann, as well as Ellis and Abbott (page 21, sec B-C of Brief)

The appellant simple states the art combination fails to address the missing features that the combination was applied towards. The references were combined to teach a "stop" button (Abbott), speeding/slowing down, recoil action and oscillating of the reels (Gauselmann). Thus the Examiner respectfully disagrees; please see the Final Office Action for further clarification.

For the reasons stated above, it is believed that the rejections should be sustained.

No decision rendered by a court of the Board is identified by the examiner in the Related Appeals and Interferences section of this Examiner's answer. For the above reasons, it is believed that the rejections should be sustained.

Respectfully submitted,

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